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TESLA, INC., ELON MUSK, BRAD W. BUSS,
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KIMBAL MUSK, and LINDA JOHNSON RICE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE TESLA, INC. SECURITIES LITIGATION

Case No. 3:18-cv-04865-EMC

JOINT CASE MANAGEMENT STATEMENT

Date: September 3, 2020
Time: 10:30 a.m.
Judge: Hon. Edward M. Chen

Lead Plaintiff Glen Littleton (“Lead Plaintiff”) and Defendants Tesla, Inc., Elon Musk, Brad W. Buss, Robyn Denholm, Ira Ehrenpreis, Antonio J. Gracias, James Murdoch, Kimbal Musk, and Linda Johnson Rice (“Defendants”) (collectively, Lead Plaintiff and Defendants are referred to as the “Parties”) submit this Joint Case Management Statement under the Standing Order for All Judges of the Northern District of California and Civil Local Rule 16-10(d).

The last case management conference in this matter occurred on May 29, 2020, during which the Court ordered a further case management conference to occur on September 3, 2020. On May 31, 2020, the Court issued a Case Management and Pretrial Order for Jury Trial. (ECF No. 261.) On June 22, 2020, Defendants answered Lead Plaintiff's Consolidated Complaint for Violations of the Federal Securities Laws. (ECF No. 264.)

1 In general, Lead Plaintiff alleges that, during the proposed class period (August 7 to August
 2 17, 2018), certain statements by Musk and/or Tesla concerning a potential take-private transaction
 3 were materially false or misleading (including omissions of alleged facts), in violation of Section
 4 10(b) of the Securities Exchange Act of 1934 (the “1934 Act”). Lead Plaintiff further alleges that
 5 the director defendants bear liability as control persons of Tesla under Section 20(a) of the 1934
 6 Act. Defendants deny Lead Plaintiff’s allegations and deny that any of them bear liability to Lead
 7 Plaintiff or the alleged class.

8 **1 - 6. JURISDICTION AND SERVICE, FACTS, LEGAL ISSUES, MOTIONS,
 9 AMENDMENT OF PLEADINGS, EVIDENCE PRESERVATION.**

10 There have been no updates to these categories since the Parties’ last joint case management
 11 statement, filed May 22, 2020. (ECF No. 256.)

12 **7. DISCLOSURES.**

13 On June 30, 2020, the Parties timely served their initial disclosures pursuant to Fed. R. Civ.
 14 P. 26(a). Lead Plaintiff disclosed the individuals likely to have discoverable information, the
 15 contact information for such individuals, the subject matters that such individuals may have
 16 discoverable information on, and documents and information that Lead Plaintiff may use to support
 17 his claims. Defendants disclosed the individuals likely to have discoverable information, the
 18 subject matters that such individuals may have discoverable information on, categorical
 19 descriptions and locations of documents, electronically stored information and tangible things, and
 20 any insurance agreements.

21 **8. DISCOVERY.**

22 Lead Plaintiff served the U.S. Securities and Exchange Commission with a subpoena to
 23 produce documents on June 5, 2020. Pursuant to Lead Plaintiff’s June 5, 2020 subpoena, the SEC
 24 produced responsive documents on July 10, 2020. Lead Plaintiff is in the process of reviewing
 25 the documents received from the SEC.

26 On July 8, 2020, Defendants served their First Request for Production of Documents. Lead
 27 Plaintiff served his responses and objections on August 7, 2020 and is in the process of producing
 28 documents.

1 On July 10, 2020, Lead Plaintiff served his First Set of Requests for Production. Defendants
 2 served their responses and objections on August 24, 2020 and are in the process of producing
 3 documents.

4 The Parties are negotiating the terms of an ESI stipulation and expect to provide the Court
 5 with a proposed stipulated order shortly.

6 Discovery is still in the preliminary stages. Remaining Discovery includes document
 7 discovery, depositions, and third-party discovery.

8 The Parties continue to conduct discovery in good faith and have identified no discovery
 9 disputes to date. The Parties agree to meet and confer in good faith if any dispute arises.

10 **9 - 11. CLASS ACTIONS, RELATED CASES, RELIEF.**

11 There have been no updates to these categories since the Parties' last joint case management
 12 statement, filed May 22, 2020. (ECF No. 256.)

13 **12. SETTLEMENT AND ADR.**

14 The Parties continue to agree that settlement negotiations would be premature at least until
 15 class certification briefing is complete, and are in the process of discussing potential ADR venues
 16 and platforms with their respective clients.

17 **13 - 16. CONSENT TO MAGISTRATE JUDGE FOR ALL PROCEEDINGS, OTHER
 18 REFERENCES, NARROWING OF ISSUES, EXPEDITED TRIAL PROCEDURE.**

19 There have been no updates to these categories since the Parties' last joint case management
 20 statement, filed May 22, 2020. (ECF No. 256.)

21 **17. SCHEDULING.**

22 On May 31, 2020, the Court issued a Case Management and Pretrial Order for Jury Trial.
 23 (ECF No. 261.) At this time, the Parties do not propose altering any deadlines set forth in the Case
 24 Management and Pretrial Order for Jury Trial. (ECF No. 261.)

25 **18. TRIAL.**

26 On May 31, 2020, the Court issued a Case Management and Pretrial Order for Jury Trial,
 27 setting as the trial date May 31, 2022. (ECF No. 261.)

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19. DISCLOSURE OF NON-PARTY INTERESTED ENTITIES OR PERSONS.

There has been no update to this category since the Parties' last joint case management statement, filed May 22, 2020. (ECF No. 256.)

20. SUBSTITUTION OF COUNSEL AND CERTIFICATION REGARDING PROFESSIONAL CONDUCT.

On August 18, 2020, Defendants notified the Court that they have retained Cooley LLP to substitute as counsel for Fenwick & West LLP. (ECF No. 270.) The Court entered an order approving the substitution of counsel on August 21, 2020. (ECF No. 271.) Counsel of record from Cooley LLP certify that they have reviewed the Guidelines for Professional Conduct for the Northern District of California. In addition to the attorneys from Cooley LLP who have filed notices of appearance to date, other attorneys from Cooley LLP will shortly submit applications for admission to the Court *pro hac vice*. The Parties do not anticipate Defendants' change of counsel requiring a modification to the Case Management and Pretrial Order for Jury Trial. (ECF No. 261.)

Dated: August 27, 2020

COOLEY LLP

By: /s/ Patrick E. Gibbs
Patrick E. Gibbs

STEPHEN C. NEAL (170085)
PATRICK E. GIBBS (183174)

Attorneys for Defendants Tesla, Inc., Elon Musk, Brad W. Buss, Robyn Denholm, Ira Ehrenpreis, Antonio J. Gracias, James Murdoch, Kimbal Musk, and Linda Johnson Rice

Dated: August 27, 2020

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11 *Attorneys for Lead Plaintiff Glen Littleton and*
12 *Lead Counsel for the Class*

13
14 Pursuant to Civil Local Rule No. 5-1(i)(3), all signatories concur in filing this Joint Case
15 Management Statement.

16 Dated: August 27, 2020

COOLEY LLP

17 By: /s/ Patrick E. Gibbs
18 PATRICK E. GIBBS

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